

PART III
TECHNICAL REVIEW CRITERIA

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TECHNICAL REVIEW CRITERIA

The Violation Review Action Criteria (VRAC) serves as a screening device to assure that limited enforcement resources concentrate on the most significant violations and that enforcement actions return a facility to compliance before they become SNC. The VRAC criteria are used by the Enforcement Division's Database and Administration Team to ensure that the appropriate enforcement response is initiated to identify permit effluent violations in the initial screening of DMR forms and other reports dealing with the quality of TPDES discharges. VRAC also identifies other schedule, reporting, and non-effluent type violations of permits and enforcement orders. Screening based upon VRAC does not establish which deviations from the effluent limitations are violations of the permit or of the Federal Water Quality Act because all such deviations, unless specifically authorized elsewhere in the permit, are violations. Therefore, the criteria does not excuse any violation(s) regardless of significance (major or minor deviation from permit, Administrative Order or regulations).

The VRAC does not establish the level of formal enforcement response necessary. Nor does VRAC establish a policy of no enforcement response to violations within the criteria. All effluent violations identified by the criteria must be professionally reviewed by the Water Quality Team staff and addressed, in writing, to the permittee with a warning of legal liability and, where appropriate, a request for explanation.

VRAC criteria apply to all categories of major permittees. The criteria are to be applied to both concentration and loading limitations. The daily average is to be applied to the thirty (30) day average or monthly average permit limitations. The daily maximum criteria is to be used for the seven (7) day average value (until all TNRCC/TPDES permits no longer contain seven day average limitations) reported by publicly owned treatment works (POTWs) and all daily maximum values reported by municipal, industrial, and federal facilities.

For many violations, VRAC is equivalent to or more stringent than the reporting criteria established by the Quarterly Noncompliance Report (QNCR) regulation. Those violations will be reviewed by an E.C. and listed on the QNCR. In other cases, violations will be reviewed by Database and Administration staff before they meet the magnitude of frequency criteria required by the QNCR.

Finally, a subset of violations identified on the QNCR will meet the definition of Significant Noncompliance (SNC). The definition for SNC is provided by the EPA. SNC identifies those violations that must receive formal enforcement action response or return to compliance within a fixed period of time.

Administrative Review Criteria

Until further notice, the Commission will apply the criteria listed below in Table 1, or the Region VI VRAC if those criteria are more stringent, to evaluate actionable instances of noncompliance for major permittees, 92-500 minors and other significant minor facilities.

Table 1
Violation Review Action Criteria (VRAC)

I. Violations of Effluent Limits

A. Direct Discharge Permit Violations

Violation	Criteria
30-day average violations*	2 violations in a 6-month period
7-day average violations	2 violations in 1 month
Daily maximum violations*	4 violations in 1 month
A) pH	< 4.0 su or > 11.0 su or if continuous monitoring criteria are exceeded
Whole effluent toxicity limit	Any violation or any test result which “triggers” further testing, evaluation, planning or corrective action.
Any limit	Causes or has the potential to cause a water quality or a health problem or the violation is of concern to the Division Director.

* Excludes bacteriological counts (eg. fecal coliform), color and thermal parameters for which criteria are discretionary.

B. Administrative Order Violations

Violations	Criteria
Any limit cited in the Administrative Order*	Any violation during the quarter

*In the absence of interim effluent limits in an Administrative Order, permit limits should be tracked and evaluated based on the criteria for permit violations.

C. Violations by Significant Industrial Users

Violations	Criteria
Violations of 30-day average or daily maximum limit (4-day average is applicable for industries subject to electro-plating standards.	20% or more of the measurements exceed the same daily maximum or the same average limit in a 12 consecutive month period.
Violations causing interference or pass through	Any violation
Violations causing imminent and substantial danger or causing the POTW to exercise its emergency authority	Any violation

II. Violations of Compliance Schedules, Permits and Administrative Orders

Violations	Criteria
Submit TRE Plan/Schedule Initiate TRE Complete TRE Submit Correction Action Plan/Schedule	60 days past schedule date
Start Construction End Construction Attain Final Compliance	60 days past schedule date
All Additional Milestone Dates	60 days past schedule date

III. Violations of Reporting Requirements in Permits, Pretreatment Regulations, Administrative Orders and Temporary/Emergency Orders

Violations	Criteria
Discharge Monitoring Reports (DMRs)	30 days overdue, incomplete, illegible or incorrect
Pretreatment Reports (by POTWS or Industrial Users)	30 days overdue, incomplete, illegible or incorrect

Compliance Schedule Reports (final progress/quarterly reports)	30 days overdue, incomplete, illegible or incorrect
Failure to provide “24-hour” notice of violation as required	Any violation
Failure to file required report on a violation as required	More than 1 time during a 12-month period
Failure to report slug loading (pretreatment report)	Any violation
Failure to file required report on biological testing and/or corrective action relating to whole effluent toxicity requirements	30 days overdue, incomplete, illegible or incorrect
All additional reports	30 days overdue, incomplete, illegible or incorrect

IV. Violations of Other Requirements

Violations	Criteria
POTW Pretreatment Programs	Any uncorrected failure to implement an approved pretreatment program which meets the requirements for being reported on the QNCR.
General Permit Conditions a. Record Keeping, Operation and Maintenance (O&M) b. Best Management Practices (BMPs)	Any violation of the narrative requirements (i.e., inaccurate record keeping, inadequate treatment plant O&M) Any failure to follow BMPS (i.e., requirement to develop SPCC plans and implement BMP)
Administrative Order (Any other requirements cited in the Administrative Order)	Any violations during the review period
Discrepancies found in the course of inspections, audits or during the review of Annual Compliance Inspections (ACIs)	Any violation
Other Violations	Violation for which a formal enforcement action is recommended by the Enforcement Response Guide

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